

Maine Revised Statutes
Title 37-B: DEFENSE, VETERANS
AND EMERGENCY MANAGEMENT

Chapter 13: MAINE EMERGENCY MANAGEMENT AGENCY

§742. EMERGENCY PROCLAMATION

1. Emergency proclamation. Emergency proclamations must be issued as follows.

A. Whenever a disaster or civil emergency exists or appears imminent, the Governor shall, by oral proclamation, declare a state of emergency in the State or any section of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of the Governor were vacant may, by oral proclamation, declare the fact that a civil emergency exists or appears sufficiently imminent to activate emergency plans in any or all areas of the State. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation. [2001, c. 353, §4 (AMD) .]

B. Subject at all times to the further direction and order of the Governor, an executive proclamation of emergency activates the emergency plans applicable to the affected areas and is the authority for the deployment and use of any forces or resources to which the plan or plans apply. [2001, c. 353, §4 (AMD) .]

C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:

- (1) Suspend the enforcement of any statute prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of the statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of the State Government and of each political subdivision of the State as reasonably necessary to cope with the disaster emergency;
- (3) Transfer the direction, personnel or functions of state departments and agencies, or units thereof, for the purposes of performing or facilitating emergency services;
- (4) Authorize the obtaining and acquisition of property, supplies and materials pursuant to section 821;
- (5) Enlist the aid of any person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;
- (6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery;
- (7) Prescribe routes, modes of transportation and destinations in connection with evacuations;
- (8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;
- (9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;
- (10) Make provision for the availability and use of temporary emergency housing;
- (11) Order the termination, temporary or permanent, of any process, operation, machine or device which may be causing or is understood to be the cause of the state of emergency for which this proclamation was made; and

(12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area. [2011, c. 626, §2 (AMD) .]

[2011, c. 626, §2 (AMD) .]

2. Energy emergency proclamation. Energy emergency proclamations must be issued as follows.

A. When an actual or impending acute shortage in energy resources threatens the health, safety or welfare of the citizens of the State, the Governor shall, by oral proclamation, declare that fact and that an energy emergency exists in the State or in any section of the State. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation. [2001, c. 353, §5 (AMD) .]

B. Upon the issuance of an energy emergency proclamation and after consulting with the Governor's Energy Office, the Governor may exercise all the powers granted in this chapter, except as specifically limited by paragraph C. The powers of the Governor include, without limitation, the authority to:

- (1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;
- (2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;
- (3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;
- (4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Public Utilities Commission, regulate the generation, distribution and consumption of electricity;
- (5) Establish temporary state and local boards and agencies;
- (6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;
- (7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations;
- (8) Regulate the storage, distribution and consumption of home heating oil; and
- (9) If the energy emergency was caused by a lack of electric grid reliability in this State resulting from insufficient capacity resources, take appropriate action, in consultation with the Public Utilities Commission, to procure sufficient capacity resources including generation capacity and interruptible, demand response or energy efficiency capacity resources. [2011, c. 655, Pt. MM, §19 (AMD); 2011, c. 655, Pt. MM, §26 (AFF) .]

C. In dealing with a declared energy emergency, the following powers granted by this chapter may not be invoked:

- (1) The eminent domain powers granted in section 821; and
- (2) The enforcement powers granted in sections 786 and 829, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation and approved by a majority of the membership of the Legislative Council. That order must specify those emergency orders or rules that are enforceable pursuant to this paragraph and must further specify the enforcement activities emergency management organizations are to pursue. No enforcement action may be taken pursuant to this paragraph without publication of the order authorizing the action in a manner reasonably calculated to give affected persons adequate notice of the order or rule to be enforced, which may include publication on the Internet, and the sanctions to be applied. [2001, c. 353, §5 (AMD) .]

D. During a declared energy emergency, the following provisions relating to environmental rules apply.

(1) Except as provided in subparagraph (2), this subsection may not be construed to authorize the Governor to suspend or to modify orders, rules, standards or classifications issued or enforced by the Department of Environmental Protection or the Maine Land Use Planning Commission.

(2) When an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages. At an extraordinary session, the board is empowered, notwithstanding any other provision of law, to approve suspensions or waivers that it determines are necessary to relieve or avoid an energy shortage and will not result in environmental degradation of a permanent or enduring nature. In no event may any suspension or modification be granted that will result in a circumvention of Title 38, sections 481 to 488, 541 and 557. The waiver or suspension may not remain in effect longer than 60 days or after the date on which the board renders a further order issued pursuant to the regular procedures specified in Title 38, whichever first occurs. [2001 , c. 353, §5 (AMD); 2011, c. 682, §38 (REV).]

E. The Superior Court of the county in which a person fails to obey an order or rule promulgated in accordance with this subsection has jurisdiction to issue a restraining order or injunction to enforce the order or rule. That proceeding must be held in accordance with the Maine Rules of Civil Procedure, Rule 65. [2001, c. 353, §5 (AMD).]

F. In the event that an order or rule issued by the Governor, pursuant to the powers granted in paragraph B, are to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of the order or rule, convene the Legislature. [1983, c. 460, §3 (NEW).]

[2011, c. 655, Pt. MM, §19 (AMD); 2011, c. 655, Pt. MM, §26 (AFF); 2011, c. 682, §38 (REV) .]

3. Oil spill emergency proclamation. In the event of a disaster due to an oil spill in coastal waters, the Commissioner of Environmental Protection shall directly represent the Governor in all direct abatement, clean-up and resource protection activities in coordination with federal, industry and other states' response teams. The agency shall assume the other functions prescribed in subsection 1, paragraph C, but does not have supervisory authority over the Department of Environmental Protection in the conduct of response activities on the water.

[1991, c. 454, §1 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §33 (AMD). 1987, c. 429, (AMD). 1987, c. 810, §§6,11 (AMD). 1991, c. 454, §1 (AMD). 2001, c. 353, §§4,5 (AMD). 2005, c. 677, §C2 (AMD). 2011, c. 626, §2 (AMD). 2011, c. 655, Pt. MM, §19 (AMD). 2011, c. 655, Pt. MM, §26 (AFF). 2011, c. 682, §38 (REV) .

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